

IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF WISCONSIN

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CARL C. GILBERT, II,

Plaintiff,

v.

STATE OF WISCONSIN, et al.,

Defendants.

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ORDER

Case No. 20-cv-193-jdp

CARL C. GILBERT, II,

Plaintiff,

v.

STATE OF WISCONSIN, et al.,

Defendants.

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ORDER

Case No. 20-cv-194-jdp

These cases were closed after the court did not receive the \$21.92 initial partial payments assessed to plaintiff for each case by the April 24, 2020 deadline. Now, plaintiff has submitted a motion for reconsideration and motion to reopen both these cases and a motion to proceed without prepaying the \$21.92 initial partial payments. Dkt. 8 and 9.

Even though plaintiff is not a prisoner and is not subject to the Prison Litigation Reform Act, this court uses one method for calculating the amount of an initial partial payment, which is set forth in 28 U.S.C. § 1915(b)(1). When assessing plaintiff an initial partial payment for the above cases, I used the resident statement he submitted in support of his motion for leave to proceed without prepaying the fee. Using the formula set forth in 28 U.S.C. § 1915(b)(1), I calculate two amounts, 20% of a plaintiff's average monthly income and 20% of a plaintiff's average monthly balance. Whichever amount is greater is the amount the plaintiff will have to prepay toward the \$350 filing fee. The greater of the two amounts is 20% of the average monthly deposits, or \$21.92; this is the amount plaintiff was assessed as an initial partial

payment of the \$350.00 fee for filing each of these cases. Therefore, I will deny without prejudice plaintiff's motion to proceed without prepaying the \$21.92 initial partial payment for each of the above cases.

However, I will give plaintiff until July 2, 2020, to submit the \$21.92 initial partial payment for each of the above cases. The above cases will remain closed until the court receives the \$21.92 initial partial payments from plaintiff. If plaintiff is still unable to submit each of the \$21.92 initial partial payments by July 2, plaintiff should submit an **updated** resident statement to the court, so that I may re-evaluate plaintiff's financial circumstances.

### ORDER

IT IS ORDERED that:

1. Plaintiff's motion to proceed without prepaying the \$21.92 initial partial payment for each of the above cases, dkt. 9, is DENIED without prejudice. If plaintiff's financial circumstances have changed, plaintiff should submit an updated resident account statement so that I may re-evaluate his request.

2. Plaintiff may have until July 2, 2020, in which to submit a check or money order payable to the clerk of court in the amount of \$21.92, or advise the court in writing why plaintiff is not able to submit the assessed amount on or before July 2, 2020. If plaintiff complies with this deadline, plaintiff's cases will be reopened and screened on the merits pursuant to 28 U.S.C. § 1915(e)(2). Otherwise, these cases will remain closed.

Entered this 4th day of June, 2020.

BY THE COURT:

/s/  
PETER OPPENEER  
Magistrate Judge